

REMARKS

After entry of this Communication, claims 1 - 20 are pending in the application. None of the claims has been amended or cancelled by this amendment. No new claims have been added. Reconsideration of the application is requested.

In the Office Action dated October 12, 2004, claims 1 and 12-14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Sanada et al., U.S. Pat. No. 5,678,419. It is submitted Sanada et al. does not teach or suggest first and second configured plates as recited in the claims. The plates 50, 52 of Sanada share the same configuration. The cross-sectional views 7 and 8 of Sanada et al. show the plates 50, 52 having the same configuration. In addition, Sanada et al. teaches that the plates 50, 52 are symmetrical at column 5, line 67 through column 6, line 1. When considered in view of Figures 7 and 8, this statement can only mean that the plates have the same configuration. The plates 50, 52 are only symmetrical when stacked in back-to-back mirrored relation. Also, the plate 50 is described in detail at column 6, lines 18-36, and the plate 52 is described immediately after as having similar structure.

Claims 1 and 12 recite that the first plates have a first configuration and that the second plates have a second configuration. The terms "first" and "second," in modifying the term "configuration," must be considered in judging the patentability of that claim against the prior art. M.P.E.P. § 2143.03, citing *In re Wilson*, 424 F.2d 1382, 1385. The terms "first" and "second" necessarily differentiate the respective configurations of the plates with respect to one another based on the operation of the English language. Otherwise, if the first and second plates of the invention had the same configuration, the claims would be misdescriptive in view of the specification and drawings of the application. Furthermore, the same terms, first and second, are also recited in the claims to differentiate the plates from one another. It is therefore respectfully submitted that claims 1 and 12-14 are in suitable condition for allowance. Reconsideration and withdrawal of the Examiner's rejection is requested.

Claims 2-10 and 15-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sanada et al., in view of Nakamura et al., U.S. Pat. No. 6,241,011. It is submitted that neither Sanada et al. nor Nakamura et al., individually or in any permissible combination, teach or suggest first and second configured plates as recited in the claims 1 and 12, from which claims 2-10 and 15-20 depend. As set forth above, Sanada et al. does not teach or suggest first and second configured plates and Nakamura et al. does not overcome this deficiency. In particular, the layered evaporator 1 of Nakamura et al. includes a plurality of a single plate 2 stacked in an alternating pattern. It is therefore respectfully submitted that claims

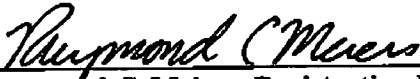
2-10 and 15-20 are in suitable condition for allowance. Reconsideration and withdrawal of the Examiner's rejection is requested.

It is submitted that all the claims of the application are suitable condition for allowance; notice of which is respectfully requested.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS

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Raymond C. Meiers, Registration No. 51,081
Howard and Howard Attorneys, P.C.
The Pinchurst Office Center, Suite 101
39400 Woodward Ave.
Bloomfield Hills, MI 48304-5151
(248) 723-0417